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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,379	02/12/2002	Charles E. Taylor	SHPR-01028US6 SRM	5582
23910	7590	01/05/2005	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			MCDONALD, RODNEY GLENN	
			ART UNIT	PAPER NUMBER
			1753	

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,379

Applicant(s)

TAYLOR ET AL.

Examiner

Rodney G. McDonald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-14 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-10, 15-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9-30-04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-10, 15-17 and 19-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/074,096. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 10/074,096 teaches the claimed air conditioner including a housing having a top a removable inlet and an outlet, an ion generator with power source, a germicidal lamp and the germicidal lamp being removable (i.e. accessible). The lamp is in the UV radiation range (See Claims 52-93)

The difference between Application No. 10/074,096 and the present claims is the removability of the second electrode.

Wang teach an air cleaner. The housing is made up of a case 1 and base 10. (Column 1 lines 54-58) The air enters through the front of the case and exits through

slots 13. (Column 2 line 40 and line 58) An ion generator is present on the dust collecting plate 2 in the form of collecting means 21 and needle-like electric discharge rods 22. When supplied with electricity at a proper place the dust collecting means 21 and the electric discharge rods 22 will cooperate, causing the air to be electrically charged so as to collect such air onto the dust collecting plate 2. (Column 1 lines 61-68; Column 2 line 1) An ozone light tube (i.e. lamp) 5 is present to restrain the propagation of bacteria. (Column 2 lines 16-19) To clean or maintain the present invention a liftable cover 4 on the top in Figs. 1-3 is removed from the central cavity 11 of the case 1, the dust collecting plate 2 and filter plate 3 can be withdrawn from the central cavity 11, while the ozone tube (i.e. lamp) can be drawn directly from the electrodes 54 and the poles 51 drawn from the pole holders 53 disposed at the left and right lateral walls of the central cavity thereof. (Column 2 lines 63-68; Column 3 lines 1-5)

The motivation for removing the second electrode is that it allows for providing a device that can easily be cleaned. (See Wang Abstract)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Application 10/074,096 by utilizing a removable electrode as taught by Wang because it allows for providing a device that can easily be cleaned.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-10, 15-17 and 19-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

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claims of copending Application No. 10/074,347. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 10/074,347 teaches the claimed air conditioner including a housing having a top a removable inlet and an outlet, an ion generator with power source, a germicidal lamp and the germicidal lamp being removable. The germicidal lamp emitting radiation. The radiation is believed to be in the range required to kill germs. (See Claims 1-26 and 28-56)

The difference between Application No. 10/074,347 and the present claims is the removability of the second electrode.

Wang is discussed above and teach the removability of the second electrode.
(See Wang discussed above)

The motivation for removing the second electrode is that it allows for providing a device that can easily be cleaned. (See Wang Abstract)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Application 10/074,347 by utilizing a removable electrode as taught by Wang because it allows for providing a device that can easily be cleaned.

Allowable Subject Matter

Claims 11-14 and 18 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 11-14 and 18 are indicated as being allowable over the prior art of record because the prior art of record does not teach the claimed subject matter including removing the germicidal lamp through the side for replacing the germicidal lamp along with removing and replacing the second collector electrode through the top of the housing.

Response to Arguments

Applicant's arguments, see Amendment, filed September 30, 2004, with respect to claims 1-14 have been fully considered and are persuasive. The 35 U.S.C. 102 and 35 U.S.C. 103 rejections of claims 1-14 have been withdrawn.

The remaining issue is the Obviousness type double patenting issues with respect to claims 1-10, 15-17, and 19-21. Applicant has not argued the impropriety of the rejections and therefore the Obviousness type double patenting rejections will be maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M- Th with Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney G. McDonald
Primary Examiner
Art Unit 1753

RM
December 21, 2004

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